IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.10240 of 1999

Dated: 28-03-2007

Between:

Musineni Satyanarayana, s/o Suryanarayana.

... Petitioner

and

The Mandal Revenue Officer,
Tadepalligudem,
West Godavari District.

... Respondent

ORDER:

Petitioner states that his father occupied an extent of Ac.0-05 cents in R.S.No.431/1A of Madhavaram village and constructed a thatched house therein about 40 years back and his father gave the said site with the house therein to him about 14 yeas ago and since then he has been residing in the said house. The respondent also granted house site patta bearing R.O.C.No.B1/HAS/F 139, dated 31-01-1989 in his favour to an extent of Ac.0-03 cents from out of Ac.0-05

cents, in his occupation.

He further states that when he started construction of an RCC roofed house in the said site assigned to him and he has completed construction of the house up to roof level, respondent, without issuing any notice, served him an order bearing R.O.C.No.A/107/98, dated 07-05-1999 canceling the house site patta granted in his favour on 31-01-1999 on the ground that the said site is required for expansion of building of M.P. Elementary School No.2 of the said village. Challenging the said orders, the petitioner filed the present writ petition seeking a *mandamus* to declare the order of respondent bearing Roc.No.A.1407/98, dated 07-05-1999,

as arbitrary and illegal

2. Heard learned counsel for the parties.

3. Evidently, a right of appeal is provided for against the orders impugned, but the petitioner without exhausting the said remedy filed the present writ petition. No doubt, from a perusal of the order impugned, it is clear that before passing the said order, the petitioner was not put on notice, but on that score alone, this Court is not inclined to entertain the writ petition having regard to the fact that the petitioner is having an alternative remedy of appeal.

4. Accordingly, the writ petition is disposed of with a direction to the petitioner to file an appeal before the appellate authority within a period of six weeks from the date of receipt of a copy of this order. On such appeal being filed, the appellate authority is directed to dispose of the same within six weeks thereafter. No costs.

However, having regard to the fact that this Court on 18-05-1999 while issuing *Rule nisi*, in W.P.M.P.No.12620 of 1999

granted interim stay of the operation of the order impugned, the respondent is directed not to interfere with the possession of the petitioner in respect of the land in question till the appeal is disposed of.

_____

JUSTICE GOPALAKRISHNA TAMADA

Dt.28-03-2007
GLV